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09/884,821	06/18/2001	Kenneth P. Mallon	017887-009000US	3509

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BRINKS HOFER GILSON & LIONE  
NBC TOWER, SUITE 3600  
455 N. CITYFRONT PLAZA DRIVE  
CHICAGO, IL 60611-5599

EXAMINER

VAN DOREN, BETH

ART UNIT PAPER NUMBER

3623

DATE MAILED: 11/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/884,821

Applicant(s)

MALLON ET AL.

Examiner

Beth Van Doren

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-13 and 16-43 is/are pending in the application.
- 4a) Of the above claim(s) 8-10 and 25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7, 11-13, 16-24, 26-43 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. The following is a non-final office action in response to communications received 03/03/2006. In this communication, applicant has elected claims 1-7, 11-13, 16-24, and 26-43, withdrawn claims 8-10 and 25, and canceled claims 14-15 and 44-45. Claims 1-7, 11-13, 16-24, and 26-43 are now pending in this office action.

#### *Election/Restrictions*

2. Applicant's election of Group I, Species I, sub-species I in the reply filed on 03/03/2006 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

#### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-7, 11-13, 16-24, and 26-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tamayo et al. (U.S. 2002/0083067) in view of Billet et al. (U.S. 2003/0018514).

As per claim 1, Tamayo et al. teaches a method of predicting behavior of a population, the method comprising:

providing a modeling system configured to model aggregate behavior of a population as a function of aggregate on-line interest data, the on-line interest data based on passive

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observation of on-line behavior of a subpopulation, wherein the on-line behavior is related to, but different than, the behavior to be modeled, and wherein the subpopulation comprises a subset of the population (See figure 15, paragraphs 0034, 0036, 0039, 0058-9, 0065, 0086, 0112, 0136, 0157, 0229-30, 0234-5, 0239, wherein a modeling system is presented. The system is built to be able to collect data concerning the online behavior of a set of users of a website, and then the system is able to build models and make predictions for these and future users (i.e. the population) based on the data held in the system);

inputting to the modeling system on-line interest data related to a subject (See paragraphs 0037-9, 0056-8, 0068, 0071-2, 0080-1, 0084, 0112-5, wherein the users behavior is monitored and data concerning this behavior is input into the model to make predictions. The data is related to a subject (i.e. product that the user is likely to purchase). See also paragraphs 0136, 0138, 0151, 0157, and 0175);

generating, with the modeling system, a prediction of behavior related to the subject (See paragraphs 0070-3, 0084, 0097, 0114, 0136, 0138-9, 0151, 0157-8, 0225, wherein predictions are made concerning future behavior, specifically with regards to purchasing a product).

However, while the system predicts behavior related to a subject for many users, Tamayo et al. does not expressly disclose predicting aggregate behavior related to the subject.

Billet et al. discloses predicting the occurrence of events using past data, such as forecasting the behavior of a group of customers at an e-commerce site (See paragraph 0024-5, 0040-2, 0048-55, 0060, 0146-7, which discusses using past data to predict future behavior. See also claim 19).

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Both Billet et al. and Tamayo et al. disclose using past data concerning a customer to forecast behavior of customers at websites. Tamayo et al. specifically builds models that are applicable to aggregate customers. Billet et al. applies models to groups of customers in order to make predictions about the groups' probable future purchases. It would have been obvious to one of ordinary skill in the art at the time of the invention to predicting aggregate behavior related to the subject (i.e product) in order to increase the accuracy of predictions concerning customers, allowing a vendor to predict the types of goods and services that the users will most likely buy. See Billet et al., paragraph 0146.

As per claim 2, Tamayo et al. teaches wherein the modeling system is further configured to model aggregate behavior of as a function of characteristics of the subject to which the behavior is related, the method further comprising inputting to the modeling system data related to characteristics of the subject (See paragraphs 0058, 0080-1, 0104, 0114, 0127-8, 0136, 0140, 0151, 0177-81, 0201-2, which discloses characteristics (attributes, keywords, etc.) of the subject which are used in the model).

As per claim 3, Tamayo et al. teaches training the modeling system with a learning data set, the learning data set including: on-line interest data related to another subject, the another subject related to the subject; and actual aggregate behavior data relating to the another subject (See figures 15 and 16, paragraphs 0034, 0059, 0094-5, 0115-6, 0138-9, 0175, 0185, which discloses training the models of the system using transactional and activity data of the users of the system, the system storing such data for a plurality of users).

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As per claim 4, Tamayo et al. teaches wherein the on-line interest data includes on-line usage data (See paragraphs 0034, 0039-40, 0043, 0056, 0068, 0076-81, which discloses collecting data such as click stream data, navigation data, etc.).

As per claims 5-6, Tamayo et al. teaches wherein the aggregate behavior to be modeled is aggregate economic activity and wherein the aggregate economic activity to be modeled is related to a product (See paragraphs 0070, 0075-81, 0086, 0138, 0175, which discloses that purchase behavior is collected and stored and used to drive a recommendation process recommending products to the user. See also paragraphs 0037, 0068, 0070-3, 0082).

As per claim 7, Tamayo et al. teaches wherein the product is selected from the group consisting of a movie, a video tape, a CD, a DVD, a model of automobile, a book, a toy, an appliance, an electronic device, a pharmaceutical product, and a software product (See paragraphs 0040, 0068, 0070-3, 0084, wherein books and videos are at least discussed).

Claims 11-13 recite equivalent limitations to claims 1-3, respectively, and are therefore rejected using the same art and rationale set forth above.

As per claim 16, Tamayo et al. teaches a method of predicting a measure of aggregate economic activity related to a product, the method comprising:

providing a modeling system configured to model aggregate economic activity of a type of product as a function of aggregate on-line interest data related to products comprising the type, wherein the on-line interest data is based on passive observation of on-line behavior of a subpopulation, wherein the on-line behavior is related to, but different than, the economic activity to be modeled, and wherein the subpopulation comprises a subset of a population that engages in the economic activity to be modeled (See figure 15, paragraphs 0034, 0036, 0039,

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0058-9, 0065, 0086, 0112, 0136, 0157, 0229-30, 0234-5, 0239, wherein a modeling system is presented. The system is built to be able to collect data concerning the online behavior of a set of users of a website, and then the system is able to build models and make predictions for these and future users (i.e. the population) based on the data held in the system);

inputting to the modeling system on-line interest data related to a first product comprising the type (See paragraphs 0037-9, 0056-8, 0068, 0071-2, 0080-1, 0084, 0112-5, wherein the users behavior is monitored and data concerning this behavior is input into the model to make predictions. The data is related to a subject (i.e. product that the user is likely to purchase). See also paragraphs 0136, 0138, 0151, 0157, and 0175); and

generating a prediction of the behavior/activity related to the first product with the modeling system (See paragraphs 0070-3, 0084, 0097, 0114, 0136, 0138-9, 0151, 0157-8, 0225, wherein predictions are made concerning future behavior, specifically with regards to purchasing a product).

However, while the system predicts activity related to a product for many users, Tamayo et al. does not expressly disclose predicting aggregate economic activity related to the product.

Billet et al. discloses predicting the occurrence of events using past data, such as forecasting the behavior of a group of customers at an e-commerce site, including economic activity (See paragraph 0024-5, 0040-2, 0048-55, 0060, 0146-7, which discusses using past data to predict future behavior. See also claim 19).

Both Billet et al. and Tamayo et al. disclose using past data concerning a customer to forecast behavior of customers at websites. Tamayo et al. specifically builds models that are applicable to aggregate customers. Billet et al. applies models to groups of customers in order to

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make predictions about the groups' probable future purchases. It would have been obvious to one of ordinary skill in the art at the time of the invention to predicting aggregate behavior related to the product in order to increase the accuracy of predictions concerning customers, allowing a vendor to predict the types of goods and services that the users will most likely buy. See Billet et al., paragraph 0146.

As per claim 17, Tamayo et al. discloses wherein the modeling system is further configured to model aggregate economic activity of a type of product as a function of characteristics of products comprising the type and inputting to the modeling system data related to characteristics of the first product (See paragraphs 0058, 0080-1, 0104, 0114, 0127-8, 0136, 0140, 0151, 0177-81, 0201-2, which discloses characteristics (attributes, keywords, etc.) of the subject which are used in the model. See also paragraph 0235).

As per claim 18, Tamayo et al. discloses training the modeling system with a learning data set, the learning data set including: on-line interest data related to a second product comprising the type; data related to characteristics of the second product; and aggregate economic activity data relating to the second product (See figures 15 and 16, paragraphs 0034, 0059, 0094-5, 0115-6, 0138-9, 0175, 0185, which discloses training the models of the system using transactional and activity data of the users of the system, the system storing such data for a plurality of users. See also paragraphs 0037, 0068, 0070-3, 0075-82, 0086, which discloses that purchase behavior is collected and stored and used to drive a recommendation process recommending products to the user).

As per claim 19, Tamayo et al. teaches wherein training the model includes: adding to the learning data set additional data related to characteristics of the second product; and retraining



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the modeling system with the learning data set (See paragraphs 0072, 0110, 0149, which discloses updating the model for accuracy).

Claims 20-21 recite equivalent limitations to claims 18-19 and are therefore rejected using the same art and rationale set forth above.

As per claim 22, Tamayo et al. teaches wherein the on-line interest data related to the first product includes counts of page hits of a web page related to the first product (See paragraphs 0058, 0068, 0080, 0136-8, 0171, 0175, 0211, 0229-32, 0235, wherein webpage hits related to a product are counted).

As per claim 23, Tamayo et al. teaches wherein the on-line interest data related to the first product includes counts of search queries at a web site that include a phrase related to the first product (See paragraphs 0058, 0175, 0208, 0211, 0225, wherein searches related to a product are monitored).

As per claim 24, Tamayo et al. teaches wherein the on-line interest data related to the first product includes an on-line interest measurement provided by a web site (See paragraphs 0110, 0114, 0152, 0160, and 0183, which discusses interest).

As per claim 26, Tamayo et al. wherein the on-line interest measurement provided by a web site is a percentage of users of the web site initiating searches related to the first product (See paragraphs 0110, 0114, 0152, 0160, and 0183, which discusses interest. See also paragraphs 0132, 0157-8, 0161-2, which discusses percentages of users).

As per claim 27, Tamayo et al. teaches wherein the on-line interest data related to the first product includes aggregate Internet usage data related to the first product (See paragraphs 0058,

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0080, 0114, 0136, 0175, 0208, 0211, 0225, wherein internet activity related to the product is recorded).

As per claim 28, Tamayo et al. teaches wherein the aggregate Internet usage data related to the first product includes statistics based on analyses of online events related to the first product (See paragraphs 0059, 0068, 0090, 0094, 0097, 0104, 0128, 0140, 0213, which discusses some statistical techniques used to analyze the behavior).

As per claim 29, Tamayo et al. teaches wherein online events include a result of a client making a request of a server and the server providing a response to the client (See paragraphs 0058, 0175, 0208, 0211, 0225, wherein searches related to a product are monitored).

As per claims 30-31, Tamayo et al. teaches wherein the analyses of online events includes:

automatically associating each online event with one or more subjects (See figure 15, paragraphs 0034, 0036, 0039, 0058-9, 0065, 0086, 0112, 0136, 0157, 0229-30, 0234-5, 0239, wherein a modeling system is presented. The system is built to be able to collect data concerning the online behavior of a set of users of a website related to one or more subjects);

accumulating counts for events by subject (See Table A, paragraphs 0114-5, wherein number of items are stored); and

identifying one or more categories relevant to each subject (See paragraphs 0059, 0112, 0152, which discloses grouping data);

accumulating counts for events by category (See figure 15, paragraphs 0034, 0036, 0039, 0058-9, 0065, 0086, 0112, 0136, 0157, 0229-30, 0234-5, 0239, wherein data is accumulated for events that occur online); and

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However, Tamayo et al. does not expressly disclose outputting the accumulated counts for each subject or for each category.

Tamayo et al. discloses a system that tracks and stores online event data and has the capability to output data. Examiner takes official notice that outputting stored data from a system is old and well known in the art as a way to allow a user to understand the data contained therein. It would have been obvious to one of ordinary skill in the art at the time of the invention to include outputting the data collected by Tamayo et al. in order to allow a user to see and understand the data collected by the system.

As per claim 32, Tamayo et al. teaches wherein the analyses of online events further includes determining if a subject for an event is a canonical equivalent of another subject; and wherein counts for canonical equivalents are accumulated together (See figure 15, paragraphs 0068, 0088, 0112, 0175, 0208, 0210-1, 0225, which discloses keywords and conceptual classes).

As per claim 33, Tamayo et al. wherein the analyses of online events further includes normalizing counts for events over a field of events (See paragraphs 0013, 0031, 0095-6, 0170, 0235, which discloses bringing together the events in a formatted and standardized manner).

However, Tamayo et al. does not expressly disclose outputting the accumulated counts.

Tamayo et al. discloses a system that tracks and stores online event data and has the capability to output data. Examiner takes official notice that outputting stored data from a system is old and well known in the art as a way to allow a user to understand the data contained therein. It would have been obvious to one of ordinary skill in the art at the time of the invention to include outputting the data collected by Tamayo et al. in order to allow a user to see and understand the data collected by the system.

As per claim 34, Tamayo et al. teaches wherein the analyses of online events further includes: determining a set of one or more demographic parameters relating to users that prompt the events (See paragraphs 0058, 0064, 0070-1, 0084, 0086, 0112, 0235, wherein demographic data is integrated with the other data stored in the system); and

using the set of one or more demographic parameters to partition the counts by demographic divisions (See paragraphs 0058, 0064, 0070-1, 0084, 0086, 0112, 0235, wherein the demographic data is linked to online activity to classify such data)

Claim 35 recites equivalent limitations to claim 7 and is therefore rejected using the same art and rationale set forth above.

As per claim 36, Tamayo et al. does not expressly disclose that the predicted measure of economic activity is a predicted number of sales during a period of time. Billet et al. discloses forecasting the behavior of a group of customers at an e-commerce site, including economic activity, wherein predicted measure of economic activity is a predicted number of sales during a period of time (See paragraph 0024-5, 0040-2, 0048-55, 0060, 0146-7, which discusses using past data to predict future behavior. See also claim 19).

Both Billet et al. and Tamayo et al. disclose using past data concerning a customer to forecast behavior of customers at websites. Tamayo et al. specifically builds models that are applicable to aggregate customers. Billet et al. applies models to groups of customers in order to make predictions about the groups' probable future purchases. It would have been obvious to one of ordinary skill in the art at the time of the invention to predicting aggregate behavior related to the product in order to increase the accuracy of predictions concerning customers,

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allowing a vendor to predict the types of goods and services that the users will most likely buy.

See Billet et al., paragraph 0146.

As per claim 37, Tamayo et al. teaches wherein the prediction of the behavior/activity is a predicted monetary value of sales during a period of time (See paragraph 0235, which discloses the probability of a recommendation being bought times the profit). However, Tamayo et al. does not expressly disclose that the prediction is an aggregate prediction.

Billet et al. discloses forecasting the behavior of a group of customers at an e-commerce site, including economic activity (See paragraph 0024-5, 0040-2, 0048-55, 0060, 0146-7, which discusses using past data to predict future behavior. See also claim 19).

Both Billet et al. and Tamayo et al. disclose using past data concerning a customer to forecast behavior of customers at websites. Tamayo et al. specifically builds models that are applicable to aggregate customers. Billet et al. applies models to groups of customers in order to make predictions about the groups' probable future purchases. It would have been obvious to one of ordinary skill in the art at the time of the invention to predicting aggregate behavior related to the product in order to increase the accuracy of predictions concerning customers, allowing a vendor to predict the types of goods and services that the users will most likely buy. See Billet et al., paragraph 0146.

Claims 38-40 and 41 recite equivalent limitations to claims 16-18 and 20, respectively, and are therefore rejected using the same art and rationale as set forth above.

Claim 42 recites equivalent limitations to claims 27 and 28 and is therefore rejected using the same art and rationale set forth above.

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Claim 43 recites equivalent limitations to claims 30-31 and 33 and is therefore rejected using the same art and rationale set forth above.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Lazarus et al. (U.S. 6,430,539) discloses predictive models of spending behavior for groups of customers.

Spalink et al. (U.S. 6,983,379) teaches monitoring online behavior to collect aggregate site behavior.

Wilkins et al. (U.S. 6,868,389) teaches an Internet based system that identifies future potential purchasers.

Martin et al. (U.S. 6,338,066) teaches a system that monitors the searches, downloads, etc. of a web user and uses this to model future actions.

Kowalchuk et al. (U.S. 2002/0010620) discloses future profitability models.

Lazarus (U.S. 2005/0159996) discloses scoring purchase behavior to make future predictions concerning purchases.

Adler (U.S. 2002/0169658) teaches a system for strategic decision making that includes an aggregator that aggregates economic activity.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Beth Van Doren whose telephone number is (571) 272-6737.

The examiner can normally be reached on M-F, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on (571) 272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

lwd

bvd

November 13, 2006

Beth Van Doren  
Patent Examiner  
AU 3623